IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 565 OF 2007
IN
NOTICE OF MOTION NO. 3159 OF 2005
IN
SUIT NO. 2842 OF 2005.

Binoy Janak Maniar ... Appellant

versus

Smt. Beena Manak Mehta ...Respondent

Mr. D.H. Mehta, instructed by Ms. K.V. Prabhu, for the appellant.
Mr. Sandip Parikh for the respondent.

CORAM: **SWATANTER KUMAR, C.J.** &
DR. D.Y. CHANDRACHUD, J.

DATE: **SEPTEMBER 05, 2007**.

P.C.

During the course of hearing, the learned counsel appearing for the parties have agreed that the suit was not maintainable on the Original Side of this Court as it ought to have been filed before the Small Causes Court at Bombay.

2. In view of the above admitted position, the order impugned in the present appeal can hardly be sustained. The counsel appearing for

the parties further agree that the plaint may be ordered to be returned to the plaintiff, respondent in the present appeal, for its presentation before the Court of competent jurisdiction.

3. In order to protect the interest of the parties, they also agree that the interim order under appeal would continue to operate for a period of four weeks from today when it would automatically come to an end unless and until fresh order is granted by the Court of competent jurisdiction. It is also clarified that during the period of four weeks, the parties would maintain *status quo* in regard to possession and title as of today and would not take any further action.

4. In view of the above, nothing remains in the appeal and as such the same is disposed of in the above agreed terms. The Registry is directed to return the plaint to the respondent (plaintiff) in the present appeal.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.